

L beginning 1964 had been spent planning the

- (a) introduction of ground troops into SVN;
- (b) invasion of NVN;
- (c) ground troops into Laos (directive records of 1962)

Note scenarios

2. L begins Brief to court officials in DOS, State, Defense etc, as to what actions they might be called on to plan, consider, undertake that would constitute war crimes ; what their moral responsibility would be ; actions they might take (e.g., expose, resist ; refuse... witness, etc.)

AB

4. Council to drafters, on above. Refuse induction? Orders?

5. Talks to War Colleges ; effect curriculums.

6.

5. What is evolution of USG practices to "rule of law" (See Johns Hopkins speech, April 7, 1965).

What "legal" actions might US have taken? (Note fear of "forcing SU to side with Hanoi"; in contrast to RT, Cambodia?)
(True, Laos actions did not lead to combat by SU. Did this mislead US?)

Paul Weiss :

representing psychiatrist Dr. Switgers :

- c. right not to be compelled to commit war crimes.
(More is known in ~~in~~ this case, 2½ years ago, on evidence of pattern of war crimes)

- Defense of soldiers who refused to invade Cambodia.
- Citizens' tribunal : - bringing specific, detailed indictments ;
 - pointing out legal aspects of current Govt actions
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- (Action role like that of Drew Pearson, w.r.t. leases on corruption)
- Educate public
Congress
Officials
 - on legal issues
 - Personal respons.
 - Facts
- Do legal analysis of accounts of decision-making by participants, in Schlesinger, Sorenson, Gilman, Hooper : Actions Take them as Confessions [e.g., Selles on Bz of Pigs] for indictment

- Compare Admin assumptions to Congress, via Fulbright, w.r.t. Tonkin Gulf Resolution, with Admin plans
- Encourage litigation in contributing countries
Philippines (not in Korea, Thailand...)
Australia
or contributing to aggression war, etc.
or against them: e.g. Koreans
(+ USG, for introducing Koreans as mercenaries.)
- legal aspects of "coercive bombing."
- Any's practice in "institutionalizing war crimes."

Prof. Friedman:

Face question: Is this country concerned any longer with the relation of its actions to international law?

[Note efforts of Admin to relate its actions to "preservation of law" and to treaties, etc.

— Consider professional approaches, challenges, to lawyers in office of Counsel to State, Defense?

Friedman: USG is still reluctant to admit openly the fact that it increasingly acts as an imperial power with sphere-of-influence aspirations, and is contemptuous of rights of smaller nations, and of international law.

[Face the fact of: impossibility of lawyers, in educating public (+ themselves) on issues + facts.

e.g. if old issues are to be raised (e.g. 1954, elections, etc.) must face question, "When were lawyers + courts on these issues 25 years ago, 10, 5 years ago?"

Gordon:

2 days after Geneva Conf., July 23, 1954

— Dulles statement on need for unilateral intervention.

(Gordon: wrong: VM units did not start staying in 1954.)

~~1954~~

S. is addressing basic character of our intervention —
determining unilaterally the character of another gov —

[Does this give a good legal basis?]

Or is it for educating public, e.g. by Schenck)

Weiss: "Facts are available."

(On low-level atrocities;

on gross aspects of USG policies, what
we have done as a gov;

But not on intent, and on individual role.

Stewart Meacham of AFSC has comitted to
publicize war crimes: Kolko, Falk, Weiss...

Suits:

1. Refusal of induction.
2. Civil damage: victims of war crimes
(e.g., of Korean atrocities.)
including as defendants those who denied
& proposed & implemented criminal policies.

[Subpoena personal files of past officials?

[What would be clear evidence of a crime
against the peace, by the USG?

What would be a crime?

other than proof of intent to aggravate

[Not fail to go over material.]

[Purposes of raising issue:

1. Stop Cambodia, VN
2. Avert escalation: Laos
Cambodia
NVN
China/SD
3. Confront pattern of US pattern of intervention
4. of Executive action
5. US bombing policies.
6. CIA role

Scall: Reporter is up against fact that the USG has presented a coherent image of reality that happens to be completely wrong. Can fight the

{Phoney. (a) Reporters don't try.

(b) " agree with US intervention.

(c) Publishers/editors censor, not just USG.

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① ② ③ ④ ⑤
⑥ ⑦ ⑧ ⑨ ⑩
⑪ ⑫ ⑬ ⑭ ⑮

DE: Don't be deterred by past attitudes of public; a purpose is to change these; an advantage of using courts should be that they aren't deterred by public opinion.

Even courts, judges, may change behavior as a result of changed views toward this war.

Consider issues in light of:

- (a) Much greater availability of facts on decision-
like NUREMBERG DOCS.
- (b) Possible expansion of court war.
e.g. genocide - NVN

- bombing of NVN
- bombing of civilians: NVN, SVN, Cambodia
- 34A; court actions
- involvement in coups
- war crimes:

Change attitudes on: - bombing

- intervention (rather of "aggression")
- planning/promoting major war.

If this would help, suggest how it could be brought about. Cf. my own case... Who wants to discuss?
[Can USA conceal crimes?]

What if you know of crimes;

What if soldier wants to resist order to commit war crime
(yet no court ill hear this defense?)
How can he have a fair trial?

Ferency: Use this as Human Right: not to kill in a war of aggression, or be killed in it...

Ferryng:

To prove we encouraged GVN to refuse discussion of elections in 1956, is to prove "breach of the peace."

(How about: Anthony, or accepting Anthony, of goes that right be "neutralist," or end war.

(Did we violate undertaking not to overturn accords by force

I Defin sone future action, and evidence of it, that would be a crime.

2 Mark Morgan:

Taylor: Supreme Court would probably find war legal, under the "supremacy clause." This would be counterproductive.
(Kins: agrees on jurisdiction, disagrees that process would be exp.)

Taylor: agrees with "cosmopolitans" that war crimes approach is better than aggressive war, etc. "Congressional appropriations constitute ratification of the war..."

[So what? So whole nation agreed?]

"But the Supreme Court can't decide; statutes + treaties over-ride 'international common law...'"

(over-ride Geneva? UN Charter?)

Terney: "Cambodia ratified an invasion afterwards"

(By smiling?)

"If we invaded Thailand, for given none,
against the wishes..."

[So there any way to restrain the President and his subordinates in their use of the Armed Forces: when, where, how, to what end?]

Amsterdam
Doddon:
Kivel

Tom Farer: Public Accountability

So long as you produce something, DOD will assume your viability; you can't go bankrupt.

Perhaps 50% of all engineering talent in the country is in defense-related industries; devoted to getting production control

Objectives are open-ended; "supremacy" in strategic weapons, tactical supremacy ^{in conventional weapons} ~~standards~~ except for Western Europe

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No public accountability of defense industries.

- No cost/profit account: profits are obscure...
- Production process unknown.
- Classified data.
- ~~Related to~~ to anti-trust: single consumer
unique products
national security

Paul Biddleman

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[*] We are fighting most of the people of SVN (or, VN).

i.e. we are fighting to remove the meddled rule
of a gov ^{the major} ~~they~~ don't want. ~~or the major~~

(just as is NVN: on much smaller
scale, gives motivation of this major of supporters
(low pay), methods they use

(Also, NVN is VNer, while US)

|| Everything we say about states and aim of VC/DKV
applies to GVN/US.

^{minor}
impressive
brutal

"foreign control" (actually, true of us, not SVN)

"illegitimate" (less true of DRV/VC than of GVN/US)

Mr. Chuck Morgan:

Can't get a prosecution of individuals into courts.
[Am ^{if} data available?]

[What if case is made?

How warn individuals in DOO? Are they immune?

Can there be high-level crimes without criminals?]

Can get ruling, from the right judge, on
legality of war, etc., into a trial (a) defending someone
from prosecution;
(b) in civil suit.

Get judge to grant immunity from prosecution by
USG for revealing classified info; i.e. to enjoin
Federal authorities from prosecuting.

Or, get Fullbright to ^{in open hearing;} subpoena citius; he refuses
to give testimony; he is threatened with contempt of
Congress. He is the in between Congress + Reds;
that's OK; go ahead & abj. Congress:

("the risk of 10 years to death")

10 years for revealing to US
death, to foreigners

(but: First Amendment).